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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/709,594	05/17/2004	Jia-Bin Huang	251812-1140	3593
24504 7590 09/15/2009 THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP 600 GALLERIA PARKWAY, S.E. STE 1500 ATLANTA, GA 30339-5994				
EXAMINER SINKANTARAKORN, PAWARIS				
ART UNIT		PAPER NUMBER		
2416				
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09/15/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/709,594

Applicant(s)

HUANG, JIA-BIN

Examiner

Pao Sinkantarakom

Art Unit

2416

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 May 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 and 20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-10, 18, and 20 is/are allowed.
- 6) ☒ Claim(s) 11-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

1. Claims 1-18 and 20 are currently pending in the application. Claim 19 is canceled.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1, 4-5, 7-9, 11, 12, 14-17, and 20 are rejected under 35 U.S.C. 102(a) as being anticipated by Admitted Prior Art (APA).

Regarding claim 11, Admitted Prior Art (APA) discloses an apparatus for improving the management of received data packets of a host system that comprises a plurality of data buffers and a plurality of descriptors that corresponds to a subset of the plurality of data buffers to manage the received data packets, the apparatus comprising:

a receiver for receiving a data packet (see paragraph 4 lines 1-2, a Network Interface Card (NIC) receives data packets from a network);

a first storage unit for storing the data packet from the receiver (see paragraph 4 lines 4-5, transferring the data packet into a data buffer);

a counter for counting a number of descriptors in a first state to produce a count value (see paragraph 8, counting the number of times an event occurs, where the number of times is the number of descriptors in the unavailable state);

a second storage unit for storing a threshold value (see paragraph 8 lines 2-4, a certain value corresponds to a threshold value, where it is inherent that the certain value is stored in order for the NIC to know that the counted value has reached the certain value); and

a comparator for comparing the count value with the threshold value and producing a comparison signal (see paragraph 6 lines 1-14 and paragraph 8 lines 2-4, comparing the number of times an event occurs to a certain value and it is inherent that the comparator produces a comparison to the NIC when the number reaches the certain value (threshold value) in order for the NIC to send a signal to the host system);

wherein the apparatus issues a first event to the host system according to the comparison signal (see paragraph 8 lines 2-4, sending a signal to the host system based on the comparison signal) to prevent all the descriptors from being in the first state (see paragraph 6, issuing a signal to the host system to clear the data buffer renews the buffer length of the descriptor);

regarding claims 12 and 14, the first state is an unavailable/free state (see paragraph 5, free descriptors and unavailable descriptors);

regarding claim 15, the apparatus issues a second event when the data packet is an ok packet (see paragraph 6);

regarding claim 16, the data buffers corresponding to the descriptors are cleared when the first event or the second event is issued (see paragraph 6);

regarding claim 17, the amount of the descriptors in the first state is monitored when a plurality of error data packets are continuously received (see paragraphs 7 and 8,).

Claim Rejections - 35 USC § 103

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Admitted Prior Art (APA).

Regarding claim 13, APA does not disclose the threshold value is programmable or the apparatus is a wireless network device. However, programmable threshold value and wireless NIC are well known in the art at the time of the invention.

Thus, it would have been obvious to implement programmable threshold value and wireless NIC into the apparatus of APA in order to increase the flexibility of the apparatus.

Allowable Subject Matter

7. Claims 1-10, 18, and 20 are allowed.

Response to Arguments

8. Applicant's arguments filed 5/14/2009 have been fully considered but they are not persuasive.

On page 4 of the Remarks, the Applicant submits that nowhere does APA disclose or suggest generating a first even to the host system according to the comparison signal to prevent all the descriptors from being in the first state. The Examiner respectfully disagrees. APA discloses notifying the host system via a signal to have the host system clear the data buffer used to receive the transferred data packet and renew the buffer length of the descriptor (see paragraphs 6 and 8). The Examiner

agrees that, if the number of events counted that triggers the coalesced signal is too high, there is a danger that all the descriptors will be unavailable. However, even though there is a danger that all the descriptors will be unavailable, but when the coalesced signal does get triggered, the coalesced signal will still prevent all the descriptors from being unavailable by notifying the host system to clear the data buffer used to receive the transferred data packet and renew the buffer length of the descriptor.

Thus, in view of the above reasoning, the Examiner believes the rejection should be sustained.

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. **Examiner's Note:** Examiner has cited particular columns and line numbers in the references applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

In the case of amending the claimed invention, Applicant is respectfully requested to indicate the portion(s) of the specification which dictate(s) the structure relied on for proper interpretation and also to verify and ascertain the metes and bounds of the claimed invention.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pao Sinkantarakorn whose telephone number is (571)270-1424. The examiner can normally be reached on Monday-Thursday 9:00am-3:00pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Ngo can be reached on 571-272-3139. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/P. S./
Examiner, Art Unit 2416

/Ricky Ngo/
Supervisory Patent Examiner, Art
Unit 2416